

FILED

JAN - 7 2019

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANAClerk, U.S. District Court
District Of MontanaBillings Yellowstone County DIVISION
(You must fill in this blank. See Instruction H)Stephen D. Huber(Write the full name of the plaintiff who is filing this
complaint and prisoner number, if any.)

Plaintiff,

-against-

Yellowstone County
Billings Police Department(Write the full name(s) of each defendant who is
being sued. If the names of all the defendants cannot
fit in the space above, please write "see attached" in
the space and attach an additional page with the full
list of names. The names listed in the above caption
must be identical to those contained in Section IV.
Do not include addresses here and do not use et al.)

Defendants.

Case No. _____
(to be filled in by the Clerk's Office)COMPLAINT
(Pro Se Prisoner)Jury Trial Demanded: ☒ Yes ☐ No
(check one)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed *in forma pauperis*.

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INSTRUCTIONS

1. Use this form to file a civil complaint with the United States District Court for the District of Montana. Include only counts/causes of action and facts – not legal arguments or citations. You may attach additional pages where necessary. Your complaint must be typed or legibly handwritten in ink and on white paper. Write on only one side of the paper. Do not use highlighters and do not staple or otherwise bind your papers. All pleadings and other papers submitted for filing must be on 8 1/2" x 11" paper (letter size). You must sign the complaint (see page 8). Your signature need not be notarized but it must be an original and not a copy. The Clerk's Office cannot provide you copies of documents in your file without prepayment of \$0.10 per page (for documents electronically available) or \$0.50 (for documents not electronically available). Please keep a copy of the documents you send to the Court.
2. The filing fee for a complaint is \$350.00 plus a \$50.00 administrative fee for a total of \$400.00. This amount is set by Congress and cannot be changed by the Court. If you pay the filing fee, you will be responsible for serving the complaint on each defendant and any costs associated with such service.
3. If you are unable to prepay the entire filing fee and service costs for this action, you may file a motion to proceed in forma pauperis. If you are a prisoner and your motion to proceed in forma pauperis is granted, the Court will assess an initial partial filing fee equal to 20% of the average monthly deposits to your prison account for the six months immediately preceding the filing of the action, or 20% of the average monthly balance in your prison account for the same six-month period, whichever is greater. Thereafter, the balance of the \$350.00 filing fee will be collected in installments equal to 20% of your preceding month's income any time the amount in your account exceeds \$10.00. The \$50.00 administrative fee does not apply to persons granted *in forma pauperis* status. You will be required to continue making these payments even if your complaint is dismissed.
4. Complaints submitted by persons proceeding in forma pauperis and complaints submitted by prisoners suing a governmental entity or employee must be reviewed by the Court before the defendants are required to answer. See 28 U.S.C. §§ 1915(e)(2), 1915A(a); 42 U.S.C. § 1997e(c). The Court will dismiss your complaint before it is served on the defendants if: (1) your allegation of poverty is untrue; (2) the action is frivolous or malicious; (3) your complaint does not state a claim upon which relief may be granted; or (4) you sue a defendant for money damages and that defendant is immune from liability for money damages. After the Court completes the review process, you will receive an Order explaining the findings and any further action you may or must take. The review process may take a few months; each case receives the judge's individual attention.

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Plaintiffs should not serve defendants, pursue discovery, or request entry of default judgment prior to the completion of this review process.

5. Prisoners who have had three or more cases dismissed as frivolous, malicious, or failing to state a claim upon which relief may be granted (strikes) will not be permitted to file any further civil actions without prepaying the filing fee unless they are in imminent danger of serious harm. See 28 U.S.C. § 1915(g).
6. Prisoners may not maintain more than two civil actions in forma pauperis at one time, unless the prisoner shows that he or she is under imminent danger of serious physical injury.
7. The case caption (page 1 of this form) must indicate the proper Division for filing. The proper Division is where the alleged wrong(s) occurred. When you have completed your complaint, mail the *original* of your complaint and either the full filing fee or your motion to proceed in forma pauperis to the proper Division:

Billings Division: *Big Horn, Carbon, Carter, Custer, Dawson, Fallon, Garfield, Golden Valley, McCone, Musselshell, Park, Petroleum, Powder River, Prairie, Richland, Rosebud, Stillwater, Sweetgrass, Treasure, Wheatland, Wibaux, and Yellowstone Counties*

U.S. District Court Clerk, 2601 2nd Avenue North, Suite 1200, Billings, MT 59101

Butte Division: *Beaverhead, Deer Lodge, Gallatin, Madison, and Silver Bow Counties*
U.S. District Court Clerk, 400 N. Main, Butte, MT 59701

Great Falls Division: *Blaine, Cascade, Chouteau, Daniels, Fergus, Glacier, Hill, Judith Basin, Liberty, Phillips, Pondera, Roosevelt, Sheridan, Teton, Toole, and Valley Counties (Crossroads Correctional Center is located in Toole County and all claims arising at CCC should be filed in Great Falls)*

U.S. District Court Clerk, 125 Central Ave. West, Great Falls, MT 59404

Helena Division: *Broadwater, Jefferson, Lewis & Clark, Meagher, and Powell Counties (Montana State Prison is located in Powell County and all claims arising at MSP should be filed in Helena)*

U.S. District Court Clerk, 901 Front St., Ste 2100, Helena, MT 59626

Missoula Division: *Flathead, Granite, Lake, Lincoln, Mineral, Missoula, Ravalli, and Sanders Counties*

U.S. District Court Clerk, P.O. Box 8537, Missoula, MT 59807

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I. Parties to this Complaint

A. Plaintiff

Name: Stephen Huber

All other names by which you have been known:

ID Number: _____

Current Institution: Yellowstone County Detention Facility

Address: 3165 King Ave E.
Billings, MT 59101

Indicate whether you are a prisoner or other confined person as follows (check all that apply):

- ☐ Pretrial detainee
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☐ Convicted and sentenced state prisoner
- ☐ Convicted and sentenced federal prisoner
- ☒ Other (explain) Cases were dismissed

B. Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1:

Name: Yellowstone County

Job or Title: _____

Employer: _____

Address: 217 North 27th Street
Billings, MT 59101

- ☐ Individual capacity
- ☒ Official capacity

Defendant No. 2:

Name: Billings Police Department

Job or Title: _____

Employer: _____

Address: 220 N. 27th St.

Billings, MT 59101

☐ Individual capacity

☒ Official capacity

Defendant No. 3:

Name: _____

Job or Title: _____

Employer: _____

Address: _____

☐ Individual capacity

☐ Official capacity

Defendant No. 4:

Name: _____

Job or Title: _____

Employer: _____

Address: _____

☐ Individual capacity

☐ Official capacity

(NOTE: If more space is needed to furnish the above information, continue on a blank sheet labeled "APPENDIX A: PARTIES").

II. Basis for Jurisdiction

Indicate below the federal legal basis for your claim, if known. This form is designed primarily for pro se prisoners challenging the constitutionality of their conditions of confinement, claims which are often brought under 42 U.S.C. § 1983 (against state, county, or municipal defendants) or in a "Bivens" action (against federal defendants).

☒ 42 U.S.C. § 1983 (state, county, or municipal defendants)

☐ Action under *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971) (federal defendants)

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III. Statement of Claim(s)

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph.

A. Count I:

1. What federal constitutional or statutory right(s) do you claim is/are being violated by defendants?

Wrongfully incarcerated, Loss of property,
Loss of housing, Loss of Job, Debt

2. What date and approximate time did the events giving rise to your claim(s) occur?

on or about Oct. 7, 2016

3. Supporting Facts: (Include all facts you consider important, including names of persons involved, places, and dates. Describe what happened without citing legal arguments, cases, or statutes).

See separate sheet of paper

"Appendix B. Statement of claims #3"

4. Defendants Involved: (List the name of each defendant involved in this claim and specifically describe what each defendant did or did not do to allegedly cause your injury).

~~Billings Police Department - I was~~

See separate sheet of paper

"Appendix B. Statement of Claims #4"

(NOTE: For each additional claim, use a blank sheet labeled "APPENDIX B. STATEMENT OF CLAIMS." You must address paragraphs III(A)(1-4) for each count., following the directions under paragraph III.

"APPENDIX B. STATEMENT OF CLAIMS"

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3) On or about October 7, 2016 at about 10:26 a.m. at address 16 Lapin Street, Billings, Montana, I was arrested for Partner / Family member assault by the Billings Police Department. ~~I~~ I spent about 2 days in jail and bonded out for \$20,000 ~~on~~ conditional release with GPS monitoring @ \$300 per month for about ~~3 and a~~ 3 1/2 months. When my bond was set at \$20,000 at my initial court date. My original charge was PFMA ~~but~~ when I went to court it was changed to the alleged charge of Intimidation. These charges were allegedly committed on my former wife of whom I am separated from now. I was appointed an ~~attorney~~ and my charges ended up being dismissed. Both the P.F.M.A. and the intimidation. I was wrongfully incarcerated, I lost my job, ~~lost my family~~ I lost my house and property and I acquired debt ~~due~~ due to getting behind on credit card payments, lot payments G.P.S. payments and having to bond out of jail. I resumed my innocence.

4) Yellowstone County the Billings Police Department brought charges of PFMA, than Intimidation against me. I was wrongfully accused and imprisoned, ~~and~~ had to pay a bond and Gps. monitoring monthly.

See also "Appendix B: Request for Relief" for further info.

"APPENDIX D: Request for Relief"

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V. ~~What~~ As I ~~have~~ have stated I had to post a bond of ~~\$~~ \$20,000 through a bondsman. I had to pay Fiedel LLC. for their services of ~~a~~ a G.P.S. monitor for a time of approximately 3.5 month at \$300 a month totalling \$1,050 approximately. I lost my job ~~and~~ and therefore had to use credit cards to pay the G.P.S. and the loan for my bond. I had interest added to my credit cards. I ~~am~~ paying for the G.P.S. and bond, I still had to pay ~~rent~~ my mortgage ~~and~~ which was \$631.33 every month and \$425 for the lot rent at 16 Lapin St, in Billings, Montana. ~~The & Even though I was not living there due to this address being~~ My ~~home~~ was Mortgage total was \$3,000 approximately and including the interest was about \$106,000. ~~I fell behind~~ I kept up with the G.P.S. Payment but fell behind after about 6 months on ~~my~~ paying my credit cards for the bond loan, ~~rent~~ Mortgage and lot payments. I did finally get a job but then it was too late to save my house. I lost the property and my home. ~~I~~ I was sued in court by Cherry Creek Homes and lost. ~~I~~ I also had to pay their attorneys fees etc. Long story short I was unable to really pay any of my bills and fell behind due to these legal obligations as stated above. I am asking for relief of \$100,000 because of these losses stemming from my alleged charges being dismissed. I was wrongfully incarcerated ~~at~~ also for a total of two days ~~of~~ ^{pg 2} 2 that I am asking relief for which is included. HUBER

IV. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive. (Do not cite legal arguments, cases, or statutes). Attach additional pages if needed.

No physical injuries

(NOTE: If more space is needed to furnish the above information, continue on a blank sheet labeled "APPENDIX C: INJURY").

V. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

See separate sheet of paper labeled
'Appendix D: Request for Relief' v.

(NOTE: If more space is needed to furnish the above information, continue on a blank sheet labeled "APPENDIX D: REQUEST FOR RELIEF").

VI. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☐

Yes

☒

No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

B. Does the jail, prison, or other correctional facility where your claim(s) arose have

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a grievance procedure?

☐ Yes ☐ No ☒ Do not know

C. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☐ Yes ☐ No

D. If you did file a grievance answer the following questions:

1. Where did you file the grievance?

2. What did you claim in your grievance?

3. What was the result, if any?

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

E. If you did not file a grievance, answer the following questions:

1. If there are any reasons why you did not file a grievance, state them here:

My claims did not happen while in YCDF and also I was not informed of a grievance procedure.

If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

On or about October 7, 2016 I informed the arresting officer that I needed to speak to an Attorney other than that I was not given any info.

F. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

I am ~~not~~ familiar with and ignorant of how the system works. I don't know the process etc. therefore I ~~didn't know~~ didn't know what or what not questions to ask. I presumed my innocence.

(NOTE: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VII. Plaintiff's Declaration

A. Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

B. I understand I must keep the Court informed of my current mailing address and my failure to do so may result in dismissal of this Complaint without notice to me.

C. I understand the Federal Rules of Civil Procedure prohibit litigants filing civil complaints from using certain information in documents submitted to the Court.

In order to comply with these rules, I understand that:

- social security numbers, taxpayer identification numbers, and financial account numbers must include only the last four digits (e.g., xxx-xx-5271, xx-xxx5271, xxxxxxxx3567);
- birth dates must include the year of birth only (e.g., xx/xx/2001); and
- names of persons under the age of 18 must include initials only (e.g. L.K.).

If my documents (including exhibits) contain any of the above listed information, I understand it is my responsibility to black that information out before sending those documents to the Court.

I understand I am responsible for protecting the privacy of this information.

D. I understand the submission of a false statement or answer to any question in this complaint may subject me to penalties for perjury. I declare under penalty of perjury that I am the Plaintiff in this action, I have read this complaint, and the information I set forth herein is true and correct. 28 U.S.C. § 1746; 18 U.S.C. § 1621.

E. This Complaint was deposited in the prison system for legal mail, postage prepaid or paid by the prison, on

Executed at YCDF on January 2, 2019.
(Location) (Date)

Signature of Plaintiff: Stephen Huber

Printed Name of Plaintiff: Stephen Huber

Prison Identification #: _____

Prison Address: 3165 King Ave. E.

Billings, MT 59101

City

State

Zip Code

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